

City and County of San Francisco

Office of the Controller - City Services Auditor

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Advent Capital Management, LLC
Did Not Use City Funds
For Political Purposes

FINANCIAL AUDITS
DIVISION



January 25, 2005
04013





CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ed Harrington
Controller

Monique Zmuda
Deputy Controller

January 25, 2005

Audit Number 04013

Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

President and Members:

The Office of the Controller (Controller) presents its report concerning the audit of Advent Capital Management, LLC (Advent) and its compliance with the City and County of San Francisco (City) ordinance prohibiting the use of city funds for political activity. The audit revealed that Advent did not use for political activity any of the \$156,152 of city funds that it received under its agreement with the San Francisco Employees' Retirement System (Retirement System).

We conducted this audit to meet the San Francisco Administrative Code's requirement that the Controller audit annually at least 10 persons or entities that enter into contracts, grant agreements, or loan agreements with the City. The Controller is to ensure that the persons or entities comply with Section 12G of the code, which prohibits the use of city funds for political activity. The code defines political activity as participating in, supporting, or attempting to influence a political campaign for any candidate or ballot measure.

According to its January 21, 2003, agreement, Advent is to provide investment management services for a fee based on the value of the assets the Retirement System allocated to Advent. The agreement did not include the prohibition to use city funds for political activity. An amendment to the agreement dated May 25, 2004, added the prohibition. On August 10, 2004, the City paid Advent \$156,152 in fees for services Advent provided during the quarter ending June 30, 2004. However, only the fees earned beginning May 25, 2004, are subject to the prohibition on political activity.

Respectfully submitted,

Ed Harrington
Controller

INTRODUCTION

BACKGROUND

To meet the requirements of the San Francisco Administrative Code (Administrative Code), Section 12G, we randomly selected Advent Capital Management, LLC (Advent) as the subject for one of our 10 reviews of contract, grant, or loan recipients that must observe the Administrative Code's ban on the use of city funds for political activity. Each year, to ensure compliance with this ban, the Administrative Code requires us to audit at least 10 persons or entities that enter contracts, grant agreements, or loan agreements with the City and County of San Francisco (City). This year, we randomly selected 10 people or entities, including Advent, that received city funds from January 1, 2003, through June 30, 2003, through a contract, grant, or loan that incorporated language banning the use of city funds for political activity.

The prohibition on the use of city funds for political activity became part of the Administrative Code after voters in the City passed Proposition Q on November 5, 2002. The former proposition is now Section 12G of the Administrative Code, which defines political activity as participating in, supporting, or attempting to influence a political campaign for any candidate or ballot measure. Section 12G also requires that all contracts, grant agreements, and loan agreements incorporate language that delineates the prohibition. According to the Office of the City Attorney, persons and organizations receiving contracts, grants, and loans from the City are not subject to Section 12G unless the prohibition appears in their agreements. According to a deputy city attorney, agreements typically did not begin to include the prohibition until after January 2003.

Advent, the subject of this review, has an agreement with the San Francisco Employees' Retirement System (Retirement System) for Advent to provide investment management services. Under the agreement, the Retirement System is to pay Advent a fee based on the value of the assets the Retirement System allocated to Advent for management. The January 21, 2003, agreement did not include the prohibition to use city funds for political activity. This prohibition was added to the agreement in the amendment to the agreement dated May 25, 2004. On August 10, 2004, the City paid Advent \$156,152 in fees for services Advent provided during the

quarter ending June 30, 2004. However, only the fees Advent earned beginning May 25, 2004, are subject to the prohibition on political activity. Advent operates its business from offices located in New York City.

SCOPE AND METHODOLOGY

The purpose of this audit was to determine if Advent inappropriately expended any city funds participating in, supporting, or attempting to influence a political campaign for any candidate or ballot measure.

To conduct the audit, we identified that Advent had a May 25, 2004, amendment to its agreement with the City that included the prohibition of using city funds for political activity. From May 25, 2004, through August 31, 2004, we identified all payments that the City made to Advent for providing services under the agreement. According to Advent's controller, Advent does not account for expenses it incurred under the agreement, and the agreement did not require Advent to account for those expenses. At our request, Advent prepared a financial statement for the entire organization for the period May 25, 2004, through August 31, 2004. Using this financial statement, we reviewed some of Advent's accounts and a sample of expenses that it incurred to verify it did not spend city funds for purposes related to political activity. In addition, we assessed Advent's procedures for approving and recording expenditures.

To determine whether Advent had sufficient profit to pay for any potential political activity expense, we compared Advent's revenue from its agreement with the retirement system to Advent's net income for the entire organization. We also asked Advent staff whether they had spent city or other funds for purposes that could relate to political activity. Finally, we searched the San Francisco Campaign Finance Database, the New York City Campaign Finance Board database, and the State of California's Cal-Access database, which reports campaign contributions, and the Campaign Financial Disclosure Information database provided by the New York State Board of Elections to find any instances that Advent made political contributions.

AUDIT RESULTS

ADVENT COMPLIED WITH THE AGREEMENT'S REQUIREMENT TO NOT USE CITY FUNDS TO PAY FOR POLITICAL ACTIVITIES

Advent Capital Management, LLC did not use any of the \$156,152 of city funds that it received for services it provided during the audit period to participate in, support, or attempt to influence a political campaign for any candidate or ballot measure. In auditing its accounting records, we found no evidence of expenditures for political activities. Also, Advent's net income for the entire organization was more than sufficient to pay for any potential political activity expense since Advent's net income exceeded the amount that the Retirement System paid it for the audit period. In addition, Advent's management informed us that the company did not make such expenditures. Furthermore, the campaign finance and contribution databases for the cities of San Francisco and New York and the states of California and New York did not show any evidence that Advent made any political contributions from May 25, 2004, through August 31, 2004, which was the period we reviewed.

We conducted this review according to the standards established by the Institute of Internal Auditors. We limited our review to those areas specified in the audit scope section of this report.

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cc: Mayor
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